

REMARKS

Claim 11 has been amended to place it in independent form, but it does not include the elements of dependent claim 9, from which it formerly depended. Claims 2-17, 19-26, 41-48, 50-59, 61, 62, and 76 remain pending. Claims 11 and 76 are in independent form.

Applicant maintains the position set forth in the reply filed October 15, 2008. Neither Stinson, U.S. Patent No. 6,340,367, nor Lukie, U.S. Patent No. 6,378,787, discloses or suggests a stent having one or more metal wires and one or more polymer wires where “the one or more metal wires only intersect[s] the one or more polymer wires such that the one or more metal wires do not form a closed current loop.” Instead, each of Stinson and Lukie discloses stents having metal wires spirally extending in opposite directions such that the wires form intersection points, an arrangement explicitly excluded by the claim requirement “the one or more metal wires only intersecting the one or more polymer wires.” Accordingly, the rejection is improper and must be withdrawn.

The Examiner, however, takes the position that Stinson merely “includes additional structure not required by the Applicant’s invention” and that “[t]he fact that [Stinson] discloses additional structure not claimed is irrelevant.” The Examiner’s position, however, fails to take into account the fact that the claim language explicitly excludes the structure disclosed by Stinson. It is improper for the Examiner to deem this language “irrelevant.” *See e.g., In re Wakefield*, 422 F.2d 897, 899, 904, 164 USPQ 636, 638, 641 (CCPA 1970); *In re Barr*, 444 F.2d 588, 170 USPQ 330 (CCPA 1971).

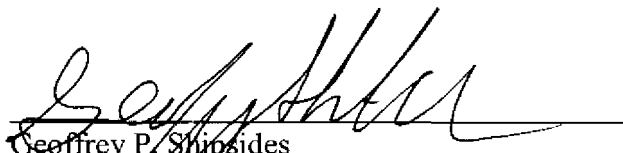
Furthermore, Applicant notes that the Examiner has not addressed all of the claim elements present in the dependent claims. In order to highlight this point, Applicant has amended claim 11 into independent form. Claim 11 further recites “wherein the polymer wire has a tensile strength of about 1.2 GPa.” Neither Stinson nor Lukie discloses or suggests a polymer wire having a tensile strength of about 1.2 GPa. Accordingly, the rejection of claim 11 cannot be maintained. Applicant also notes that the elements of at least dependent claims 4, 5, 9, 10, 12-14, 41-46, 55, 57-59 are not disclosed or suggested by Stinson or Lukie and that the Examiner has also failed to specifically address these elements. Accordingly, Applicant further request that the rejection of these claims be withdrawn.

Accordingly, each of the pending claims 2-17, 19-26, 41-48, 50-59, 61, 62, and 76 defines patentable subject matter over the cited prior art. As such, Applicant requests that the Examiner allow pending claims 2-17, 19-26, 41-48, 50-59, 61, 62, and 76. It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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